



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

Northwest Regional Office • 3190 160th Avenue SE • Bellevue, Washington 98008-5452 • (425) 649-7000

August 1, 2005

King County Department of Natural Resources and Parks  
ATTN: Dan Eastman  
Mail Stop KSC-NR-0600  
201 South Jackson Street - Suite 600  
Seattle, WA 98104

**REGISTERED MAIL**  
**RR 359 893 672 US**

Dear Mr. Eastman:

**RE: Order # 2618**  
**U.S. Army Corps Reference No. 200500654**  
**Water Quality Certification/Coastal Zone Consistency Determination for King County**  
**Department of Natural Resources and Parks, Taylor Creek Channel**  
**Relocation/Restoration, Taylor Creek, King County, Washington**

The request for certification for proposed work in and adjacent to Taylor Creek has been reviewed. On behalf of the State of Washington, we certify that the proposed work, as conditioned by the enclosed Order, will comply with applicable provisions of Sections 301, 302, 303, 306 and 307 of the Clean Water Act, as amended, and other appropriate requirements of State law. This letter also serves as the State response to the Corps of Engineers.

Pursuant to 16 U.S.C. 1456 et. seq. (Section 307(c)(3) of the Coastal Zone Management Act of 1972 as amended), Ecology concurs with the applicant's determination that this work will be consistent with the approved Washington State Coastal Zone Management Program. This concurrence is based upon the applicant's compliance with all applicable enforceable policies of the Coastal Zone Management Program, including Section 401 of the Federal Water Pollution Control Act.

This certification is subject to the conditions contained in the enclosed Order. If you have any questions, please contact Rebekah Padgett at (425) 649-7129. Written comments can be sent to Rebekah at the Department of Ecology, 3190 160th Avenue SE, Bellevue, WA 98008, or at [rp461@ecy.wa.gov](mailto:rp461@ecy.wa.gov). The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,

Geoff Tallent  
Interim Section Manager  
Shorelands and Environmental Assistance Program

GT:RP:rc  
Enclosure

cc: Sandra Manning, U.S. Army Corps of Engineers  
Laura Casey, Ecology  
Penny Keys, Ecology

Clay Gustaves, Williams Northwest Pipeline  
Kerry Carroll, Ecology  
Loree' Randall, Ecology



<b>IN THE MATTER OF GRANTING A</b>	)	<b>ORDER # 2618</b>
<b>WATER QUALITY</b>	)	<b>Corps Reference # 200500654</b>
<b>CERTIFICATION TO</b>	)	Restoration and enhancement of 5.9 acres of
<b>King County Department of Natural</b>	)	wetland habitat and relocation of 900 feet of
<b>Resources and Parks</b>	)	Taylor Creek; Section 4, T. 22 N., R. 6 E, Taylor
in accordance with 33 U.S.C. 1341	)	Creek, King County, Washington.
FWPCA § 401, RCW 90.48.120, RCW	)	
90.48.260 and Chapter 173-201A WAC	)	

TO: King County Department of Natural Resources and Parks  
ATTN: Dan Eastman  
Mail Stop KSC-NR-0600  
201 South Jackson Street - Suite 600  
Seattle, WA 98104

On July 29, 2005, the U.S. Army Corps of Engineers issued a Nationwide Permit (NWP) #27 "Stream and Wetland Restoration Activities" to King County Department of Natural Resources and Parks for restoration and enhancement work that will restore wetland habitat and relocate Taylor Creek. During review of the project, the Department of Ecology (Ecology) determined that an individual Section 401 water quality certification would be required. Ecology issued a public notice pursuant to the provisions of 33 U.S.C. 1341 (FWPCA §401) on July 8, 2005. One comment was received.

The proposed project consists of grading approximately 2.2 acres of existing Category III wetland, relocating 900 feet of Taylor Creek to an historic alignment away from the road, and restoring the hydraulic conditions that existed throughout the floodplain. The project also includes: enhancement of 4.0 acres of existing wetland habitat; restoration of 1.9 acres of wetland habitat; placement of more than 200 pieces of woody debris into the stream, wetland, and associated buffers; increasing the total stream length by approximately 500 feet; and establishing native vegetation. Construction of the new stream channel includes placement of approximately 1,500 yards of streambed gravel within existing wetland habitat and re-distribution of native material within the stream and wetland.

#### **AUTHORITIES:**

For purposes of this Order, the term "Applicant" shall mean King County Department of Natural Resources and Parks and its agents, assigns, and contractors.

In exercising authority under 33 U.S.C. 1341, 16 U.S.C. 1456, RCW 90.48.120, and RCW 90.48.260, Ecology has investigated this application pursuant to the following:

1. Conformance with applicable water quality-based, technology-based, and toxic or pretreatment effluent limitations as provided under 33 U.S.C. Sections 1311, 1312, 1313, 1316, and 1317 (FWPCA Sections 301, 303, 306 and 307);

2. Conformance with the state water quality standards as provided for in Chapter 173-201A WAC authorized by 33 U.S.C. 1313 and by Chapter 90.48 RCW, and with other appropriate requirements of state law; and
3. Conformance with the provision of using all known, available and reasonable methods to prevent and control pollution of state waters as required by RCW 90.48.010.

**CONDITIONS OF ORDER # 2618 AND WATER QUALITY CERTIFICATION:**

In view of the foregoing and in accordance with 33 U.S.C. 1341, RCW 90.48.260, RCW 90.48.120, and Chapter 173-201A WAC, water quality certification is granted to the Applicant subject to the following conditions:

**A. No Impairment of Water Quality:**

- A1. Taylor Creek, WRIA #8, is classified as Class AA waters of the state. Certification of this proposal does not authorize Applicant to exceed applicable state water quality standards (Chapter 173-201A WAC) or sediment quality standards (Chapter 173-204 WAC). Water quality criteria contained in WAC 173-201A-030(1) and WAC 173-201A-040 shall apply to this project, unless otherwise authorized by Ecology. This Order does not authorize temporary exceedances of water quality standards beyond the limits established in WAC 173-201A-110(3). Furthermore, nothing in this certification shall absolve Applicant from liability for contamination and any subsequent cleanup of surface waters or sediments occurring as a result of project construction or operations.

Taylor Creek has been identified on the current 303(d) list as exceeding state water quality standards for dissolved oxygen and pH. This proposed project shall not result in further exceedances of the standards.

- A2. In streams less than 10 cubic feet per second (cfs), WAC 173-201A-110(3) allows a 100-foot mixing zone for temporary exceedances of the turbidity standards during and immediately after necessary in-water construction activities that result in the disturbance of in-place sediments. This certification does not authorize a temporary turbidity mixing zone greater than that allowed by WAC 173-201A-110(3). The Applicant shall fully apply all known, available, and reasonable methods of prevention, control, and treatment (AKART). Within the temporary turbidity mixing zone, the Class AA standard for turbidity is waived. All other applicable water quality standards shall remain in effect within the temporary turbidity mixing zone and all other water quality standards are to be met outside of the authorized mixing zone.
- A3. The waiver of specified standards within the temporary turbidity mixing zone (100 feet from activity) is intended for brief periods of time (such as a few hours) and is not an

authorization to exceed those standards for the entire duration of construction. In no case shall turbidity exceedances cause degradation of water quality that significantly interferes with or becomes injurious to characteristic water uses, including fisheries habitat, or causes long-term harm.

**B. Project Mitigation:**

- B1. Impacts to aquatic resources shall be mitigated through measures described in the following documents, except as modified by this Certification and Order, and including any approved revisions:
- a. Taylor Creek Relocation and Wetland Restoration 70% plans, King County Department of Natural Resources and Parks, June 10, 2005
  - b. Stream/Wetland Design and Mitigation Report, King County Department of Natural Resources and Parks, June 2005
  - c. Long-Term Performance Monitoring and Maintenance Section of Stream/Wetland Design and Mitigation Report, King County Department of Natural Resources and Parks, revised July 13, 2005
- B2. In addition to mitigation measures described in the above-referenced documents, the following requirements shall be conditions for the project:
- a. Construction Plans: Final Construction Plans (100% documents) shall be submitted to Ecology for review and approval, with copies to the local jurisdictions and the U.S. Army Corps of Engineers. Ecology shall review and approve these Final Construction Plans within 14 days of commencement of clearing. The plans shall be sent to Laura Casey at Ecology's Northwest Regional Office, 3190-160<sup>th</sup> Avenue SE, Bellevue, WA 98008-5452.
  - b. Planting Details and Implementation Notes: Plan sheets showing planting details and implementation notes shall be provided to Ecology for review and approval prior to commencing plant installation. The plans shall be sent to Rebekah Padgett at Ecology's Northwest Regional Office, 3190-160<sup>th</sup> Avenue SE, Bellevue, WA 98008-5452
  - c. Preconstruction Meeting: The Applicant's wetland ecologist shall be present at the pre-construction meeting for the project.

- d. Record Report and Drawings: A report documenting the final design of the project areas shall be prepared when site construction and planting is completed. The report shall include the following:
- i. Vicinity map showing site access;
  - ii. Final site topography;
  - iii. Hydrologic design;
  - iv. Drawings that clearly identify the boundaries of the project area;
  - v. The installed planting scheme showing densities, sizes, and locations of plants, as well as plant sources and the time of planting;
  - vi. Photographs of the area taken from permanent reference points;
  - vii. Locations of photopoints, sampling and monitoring sites;
  - viii. An analysis of any changes to the project plan that occurred during construction.

A copy of the Record Report shall be sent to Rebekah Padgett at Ecology within 60 days of completing construction, and in no case later than December 31, 2006. The project monitoring period shall commence with Ecology's acceptance of the Record Report.

- e. Field Supervision: The wetland grading activity and plant installation shall be field-supervised by the Applicant's wetland ecologist to ensure proper elevations are achieved and plants are appropriately placed.
- f. Permanent Protection: Applicant shall provide documentation showing the means of permanent protection for the project site (such as County ownership, a conservation easement, or similar) to Rebekah Padgett at Ecology within 60 days of completing construction, and in no case later than December 31, 2006.
- g. Performance Standards: Specific performance standards for the project are listed in the June 2005 Stream/Wetland Design and Mitigation Report by King County Department of Natural Resources and Parks, Long-Term Performance Monitoring and Maintenance section, pages 9-11, as amended July 13, 2005.
- h. Monitoring: Monitoring to ensure that the project has successfully met its performance standards shall be performed as described in Table 3, page 9, Stream/Wetland Design and Mitigation Report by King County Department of

Natural Resources and Parks, June 2005. Monitoring shall take place over a period of 10 years, with monitoring reports prepared every other monitoring year for the first 5 years and in years seven and ten. Copies of all monitoring reports shall be submitted to Ecology at 3190 – 160<sup>th</sup> Avenue SE, Bellevue, WA, 98008-5452, as well as to the U.S. Army Corps of Engineers.

- i. Maintenance: Maintenance of the project site is necessary to ensure that the project is successful. Maintenance measures may include irrigation, removal and replacement of dead and dying plants, removal of non-native invasive species, and protection of plants from herbivores. Irrigation may be required from June through Mid-October for the first growing season following plant installation, to ensure a minimum of one inch of water per week. Irrigation will not be necessary on those weeks where rainfall at the site exceeds one inch per week. Maintenance will be performed regularly for the first 5 years, and then as needed thereafter.
- j. Contingency Measures: Applicant is responsible for the success of the wetland restoration and enhancement. If some aspect of the project has not met its performance standards at the end of the monitoring period, then contingency measures may be necessary, such as re-grading, replanting, or otherwise altering the design for project success. Contingency measures shall be approved by Ecology and the Corps prior to implementation.
- k. Access: Applicant shall provide access to the mitigation site upon request by Ecology personnel for site inspections, monitoring, and necessary data collection to ensure that the wetland construction and monitoring plans are implemented as approved.

**C. Construction Stormwater Management:**

- C1. Before clearing and grading in or near wetlands and streams, the areas to remain undisturbed shall be protected from construction impacts. Bright orange construction fencing shall be installed before site clearing to mark the edge of the clearing near the existing wetlands and stream channels to be protected. All project staff shall be trained to recognize the construction fencing that identifies wetland boundaries. Equipment shall not be moved into or operated in wetlands or stream channels that are not authorized to be altered.
- C2. Erosion Control: All conditions of the Construction Stormwater NPDES Permit for this project shall be implemented.
- C3. The following erosion control and storm water measures shall be implemented to prevent any uncontrolled discharge to state waters, and additional measures shall be implemented as necessary to control runoff from the site:

- a. All sediment control devices including sediment ponds, perimeter silt fencing, and other sediment trapping Best Management Practices (BMPs) shall be installed before grading.
- b. All exposed and unworked soils shall be stabilized by suitable and timely application of BMPs.
- c. Adjacent and downstream properties shall be protected from sediment deposition from wind or water action.
- d. All temporary conveyance channels and pipe outlets shall be stabilized to prevent erosion.
- e. All construction access routes that are subject to water or wind erosion shall be stabilized.
- f. All temporary and permanent erosion control BMPs shall be maintained and repaired as needed to assure continued performance of their intended function.
- g. All temporary BMPs and accumulated sediments shall be removed or stabilized after final site stabilization.

C4. Construction:

- a. Turbid water generated from construction activities, including turbid dewatering water, shall not be discharged directly to waters of the state. Temporary sediment traps shall be used to allow the turbid water to settle, and shall not be discharged until the water meets the water quality standards for turbidity.
- b. Clean water may be discharged directly to waters of the state after testing has been completed to determine compliance with the water quality standards. The discharge outfall method shall be designed and operated so as to not cause erosion or scour in the stream channel, banks or vegetation. The flow rate of discharge water into flowing water shall not exceed one-tenth of the natural flow rate of the water at the time of discharge.
- c. Impacts to bank and shoreline vegetation shall be limited to the maximum extent possible, and replanted where destroyed or damaged.
- d. Approach material used to access a project sites shall be of clean composition and placed in a manner to prevent erosion and siltation that might result from high water and/or heavy rains. Approach material shall not be placed in wetlands or other waters

of the state unless authorized by Ecology.

- e. Geotextile shall be placed on the temporary access road, then rock placed on top of the geotextile, to allow easier removal of the temporary access road following construction.
- f. All construction debris shall be properly disposed of on land so that it cannot enter a waterway or cause water quality degradation to state waters.
- g. Wash water containing oils, grease, or other hazardous materials resulting from wash down of equipment or working areas shall be contained for proper disposal, and shall not be discharged into state waters.

**D. Emergency/Contingency Measures:**

- D1. In the event Applicant is unable to comply with any of the permit terms and conditions due to any cause, Applicant shall:
  - a. Immediately take action to stop, contain, and clean up unauthorized discharges or otherwise stop the violation and correct the problem.
  - b. Notify Ecology of the failure to comply. Spill events shall be reported immediately to Ecology's 24-Hour Spill Response Team at (425) 649-7000, and within 24 hours to Ecology's Rebekah Padgett at (425) 649-7129.
  - c. Submit a detailed written report to Ecology's Rebekah Padgett within 5 days that describes the nature of the violation, corrective action taken and/or planned, steps to be taken to prevent a recurrence, results of any samples taken, and any other pertinent information.
  - d. Compliance with this condition does not relieve Applicant from responsibility to maintain continuous compliance with the terms and conditions of this Order or the resulting liability from failure to comply.
- D2. Fuel hoses, oil drums, oil or fuel transfer valves and fittings, etc., shall be checked regularly for drips or leaks, and shall be maintained and stored properly to prevent spills into state waters. No refueling of equipment shall occur over, or within 50 feet of creeks or wetlands.



**E. Notification:**

- E1. Applicant shall provide notice to Ecology's Rebekah Padgett at least 3 days prior to the start of placing fill in wetlands or other waters of the state, and within 14 days after completion of construction at each project site and mitigation site. Notification can take place by e-mail to [rp461@ecy.wa.gov](mailto:rp461@ecy.wa.gov), telephone to (425) 649-7129, fax to (425) 649-7098, or in writing.

**F. General Conditions:**

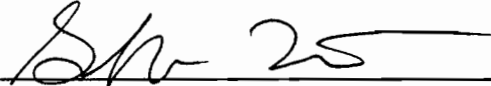
- F1. This certification does not exempt and is provisional upon compliance with other statutes and codes administered by federal, state, and local agencies.
- F2. Applicant will be out of compliance with this certification if the project is constructed and/or operated in a manner not consistent with the project description contained in the Public Notice for certification, or as otherwise approved by Ecology. Additional mitigation measures may be required through other local, state, or federal requirements.
- F3. Applicant will be out of compliance with this certification and must reapply with an updated application if 5 years elapse between the date of the issuance of this certification and the beginning of construction and/or discharge for which the federal license or permit is being sought.
- F4. Applicant will be out of compliance with this certification and must reapply with an updated application if the information contained in the Public Notice is voided by subsequent submittals to the federal agency. Any future action at this project location, emergency or otherwise, that is not defined in the Public Notice, or has not been approved by Ecology, is not authorized by this Order. All future actions shall be coordinated with Ecology for approval prior to implementation of such action.
- F5. This Order is valid until all compliance requirements in this document have been met.
- F6. Copies of this Order shall be kept on the job site and readily available for reference by Ecology personnel, the construction superintendent, construction managers and foremen, and state and local government inspectors. To avoid violations or non-compliance with this Order, Applicant shall ensure that project managers, construction superintendents, and other responsible parties have read and understand relevant aspects of this Order, the NPDES permit, and any subsequent revision or Ecology-approved plans.
- F7. Applicant shall provide access to the project site and all mitigation sites upon request by Ecology personnel for site inspections, monitoring, necessary data collection, or to ensure that conditions of this Order are being met.

- F8. Nothing in this Order waives Ecology's authority to issue additional orders if Ecology determines further actions are necessary to implement the water quality laws of the state. Further, Ecology retains continuing jurisdiction to make modifications hereto through supplemental order, if additional impacts due to project construction or operation are identified (e.g., violations of water quality standards, downstream erosion, etc.), or if additional conditions are necessary to further protect the public interest.
- F9. Liability: Any person who fails to comply with any provision of this Order shall be liable for a penalty of up to ten thousand dollars (\$10,000) per violation for each day of continuing noncompliance.

**Appeal Process:**

Any person aggrieved by Order # 2618 may obtain review thereof by appeal. Pursuant to Chapter 43.21B RCW, a person can appeal this order to the Pollution Control Hearings Board within 30 days of the date of receipt of this Order. Any such appeal must be sent to the Washington Pollution Control Hearings Board, PO Box 40903, Olympia, WA 98504-0903. Concurrently, a copy of the appeal must be sent to the Department of Ecology, Shorelands and Environmental Assistance Program, Attn: Loree' Randall, PO Box 47600, Olympia, WA 98504-7600. These procedures are consistent with the provisions of Chapter 43.21B RCW and the rules and regulations adopted thereunder.

Dated August 1, 2005 at Bellevue, Washington.

  
\_\_\_\_\_  
Geoff Tallent, Interim Section Manager  
Shorelands and Environmental Assistance Program  
Department of Ecology  
State of Washington